

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DARRYL STOKES,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No. 09-cv-1393-MJP

ORDER OF DISMISSAL

The Court, having reviewed Plaintiff's amended complaint, the Report and Recommendation of the Honorable James P. Donohue, Plaintiffs' objections (Dkt. No. 25), Defendants' response (Dkt. No. 26), and the balance of the record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation.
- (2) Plaintiff objects that administrative exhaustion would be futile. (Dkt. No. 25 at 1.) Defendant points out, and the Court agrees, that Plaintiff's citations refer to cases decided before the PLRA's 1996 revisions. (Dkt. No. 26 at 1.) Plaintiff

1 has not exhausted his administrative remedies and, as such, the Court must
2 dismiss the complaint. (Dkt. No. 24 at 6.)

3 (3) Defendant's motion to dismiss, Dkt. No. 20, is GRANTED, and the amended
4 complaint, Dkt. No. 15, and this action are DISMISSED without prejudice.

5 (4) The Clerk is directed to send copies of this Order to Plaintiff, counsel for
6 Defendant and to Judge Donohue.

7 DATED this 11th day of May, 2010.

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11 Marsha J. Pechman
12 United States District Judge
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